

**Consideration of amendments to Information Bulletin #7 that addresses petitions for rule change and for nonrule policy document change; Administrative Cause No. 11-151A**

Information Bulletin #7 (“Petitions for Rule Change and for Nonrule Policy Document Change”) is recommended for its third set of amendments as set forth in Exhibit A. The amendments are housekeeping. They would cross-reference to another nonrule policy document which addresses “small lake” petitions, remove an obsolete reference to DNR’s Museum Board of Trustees, and acknowledge the document does not supersede any law that requires the full Commission to consider a citizen petition for rule change.

**Exhibit A**

**NATURAL RESOURCES COMMISSION**

Information Bulletin #7 (~~Second~~ Third Amendment)

**SUBJECT:** Petitions for Rule Change and for Nonrule Policy Document Change

**I. HISTORY**

The Natural Resources Commission in 1994 adopted a nonrule policy document to address petitions for rule change originating outside the Commission and the Department of Natural Resources. The policy was published in the July 1, 1994, issue of the Indiana Register (17 IR 2481) as Information Bulletin #7. In 2006, the policy was amended to include updated citations to reflect recodifications of rules and statutes that have taken place since 1994. Also, the scope of the document was expanded to include a petition to change a nonrule policy document. These amendments were posted in the Indiana Register on October 11, 2006, at DIN:[20061011-IR-312060443NRA](#). The document ~~is again~~ was amended effective February 1, 2008, to reference petitions to exempt a "small lake" from the statutory speed limit, or to rescind or amend an existing exemption, under [IC 14-15-3](#). The 2008 amendments also ~~update~~ updated the address of the Division of Hearings. Effective October 1, 2011, the document is amended again to recognize a separate nonrule policy document that addresses "small lake" petitions, to remove an obsolete reference to the DNR's former Museum Board of Trustees, and to acknowledge the document does not supersede any law requiring Commission consideration of a citizen's petition for rule change.

**II. PURPOSE**

The purpose for this information bulletin is to establish a process for the submission and consideration of petitions for rule change within areas subject to the jurisdiction of the Natural Resources Commission. Included is any rule proposal submitted by an individual, a corporation, an association, a local unit of government, another state agency, a federal agency, or another person. The person may seek the adoption of a new rule, an amended rule, a recodified rule, a rule repeal, or a similar action with respect to a nonrule policy document.

**III. PROCESS**

A person seeking action on a rule shall file a written petition at the following address:

Division of Hearings  
Natural Resources Commission  
Indiana Government Center-North  
100 North Senate Avenue, Room N501  
Indianapolis, IN 46204-2200

The petition shall provide the name and address of the person, or a representative of the person, who is seeking the action and a description of the action sought. The petition may include proposed wording for any new, amended, or recodified rule or a similar action with respect to a nonrule policy document.

Upon the receipt of the petition, the Division of Hearings shall assign an administrative cause number and

deliver copies of the proposal to each deputy director of the Department of Natural Resources. The Division of Hearings shall identify the document as a rule petition or nonrule policy document petition and request that the director cause an investigation be performed into the merits of the proposal. A committee shall be established, with representation from interested divisions, to investigate the merits of the petition. As appropriate, the Historic Preservation Review Board, ~~the Board of Trustees for the Division of State Museums and Historic Sites~~, and the Advisory Council shall be consulted. After conclusion of any investigation, an informal report shall be presented to the secretary of the Commission, together with any recommendations regarding the proposal. The secretary of the Commission may give preliminary adoption to a rule proposal, may refer the matter to the Commission for consideration, or (unless otherwise prohibited by law) may elect not to proceed with a proposal. The secretary of the commission shall, within a responsible time, cause notice to be given to the petitioner as to the disposition of the petition. A record of the final disposition shall also be filed with the Division of Hearings.

#### IV. EXCEPTIONS

The process set forth in this information bulletin does not apply to a petition for rule change applicable to any of the following:

- (1) [IC 14-34](#) (surface coal mining). For rule petitions directed to surface coal mining and reclamation, see [IC14-34-2-7](#).
- (2) [IC 14-37](#) (oil and gas production). For rule petitions directed to oil and gas production and reclamation, see [IC 14-37-3-16](#) and [312 IAC 16-2-3](#).
- (3) [IC 14-15-3-11](#), ~~and [IC 14-15-3-12](#), and [IC 14-15-3-12.5](#)~~. For a petition ~~to exempt regarding exemption of a "small lake" from the ten-mile-per hour speed limit established by [IC 14-15-3-10](#), or to rescind or amend an exemption previously established for a small lake, the petitioner shall file the petition with the Division of Hearings. Upon receipt, the Division of Hearings shall refer the petition to the State Boating Law Administrator in the Department's Division of Law Enforcement to determine whether a "majority of the abutting property owners" have entered the petition. After the Division of Law Enforcement completes an investigation, the State Boating Law Administrator shall determine whether a sufficient number of abutting property owners have joined the petition and shall provide notice of the determination to the petitioner and to any other affected persons under [IC 4-21.5-3-5\(a\)\(5\)](#). An affected person may seek administrative review to the Commission under [IC 4-21.5](#) and [312 IAC 3-1](#). If the State Boating Law Administrator determines the petition includes sufficient signatures and no person seeks timely administrative review, or if administrative review is sought and following the completion of any proceeding there is a determination the petition includes sufficient signatures, the Division of Hearings and the Department shall process the petition as otherwise provided in the information bulletin. In conducting this process, the Department shall consider and make recommendations to the Commission based upon the factors described at [IC 14-15-3-11\(d\)\(2\)](#) or [IC 14-15-3-12\(c\)\(2\)](#). For the purposes of this paragraph, "small lake" has the meaning set forth in [312 IAC 5-2-33](#), see "Small Lakes (Exemptions from Speed Limits)", Commission Information Bulletin 67, Indiana Register, 20110601-IR-312110314NRA (June 1, 2011).~~

#### V. RETENTION OF AUTHORITY BY DIRECTOR AND COMMISSION

This information bulletin does not restrict the ability of the Director of the Department of Natural Resources or the Natural Resources Commission to take action with respect to any rule or nonrule policy document. See, also, [312 IAC 2-2-4](#) authorizing the Director to approve any rule of the Commission for preliminary adoption.